

DOCUMENT RESUME

02876 - [A2013080]

[Real Estate Expenses]. B-188414. June 11, 1977. 4 pp.

Decision re: Terence R. St. Louis; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Organization Concerned: Department of the Air Force.

Authority: (P.L. 89-516, sec. 23; 80 Stat. 323; 5 U.S.C. 5724a, 5724a (a) (2-4); B-130230 (1976). B-169696 (1970). 2 J.T.R., para. C14000-1. F.T.R. (FPMR 101-7), para. 2-6.1.

Air Force employee transferred to Europe from United States with reemployment rights to former duty station was not entitled to real estate expenses incurred from sale of home upon transfer back to United States. Regulations require both old and new duty stations to be within United States. Actual transfer from overseas was considered in applying restrictions.  
(Author/DJM)

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Cir. Rec**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548**FILE:** B-188414**DATE:** July 11, 1977**MATTER OF:** Terence R. St. Louis - Real Estate Expenses

**DIGEST:** Employee transferred to Wiesbaden, Germany, from Westover AFB, Massachusetts, with reemployment rights back to Westover, is not entitled to reimbursement for real estate expenses incurred in sale of home in Massachusetts when employee is reemployed at Robins AFB, Georgia, instead of Westover since regulations require old and new duty stations to be located within U. S. or other designated location. The actual transfer from Wiesbaden is to be considered in applying the limitations, not that reemployment or contractual rights were transferred from Westover AFB to another location within the U. S.

This action is in response to a letter dated February 7, 1977, from the Department of the Air Force, requesting an advance decision as to whether Mr. Terence R. St. Louis, an Air Force employee, is entitled to reimbursement for real estate expenses under the circumstances described. The request was assigned PDTATAC Control No. 77-7 and forwarded to our Office by the Per Diem, Travel and Transportation Allowance Committee by endorsement dated February 15, 1977.

The record shows that Mr. St. Louis was transferred from Westover Air Force Base (AFB), Massachusetts, to Wiesbaden, Germany, in May 1969. He had reemployment rights at Westover AFB but due to a transfer of function and the closure of Westover AFB while he was in Germany, his reemployment rights were transferred to Griffiss AFB, New York. Mr. St. Louis' duty station was changed from Griffiss AFB to Robins AFB, Georgia, by an amendment to Order No. AB 238, dated July 25, 1974.

On April 30, 1976, Mr. St. Louis presented a claim for reimbursement of real estate expenses he incurred in the sale of his home in Massachusetts. Because his orders effecting the transfer back to the U. S. did not authorize reimbursement for real estate expenses consistent with 2 Joint Travel Regulations (JTR) para. C14000-1, the Air Force did not reimburse Mr. St. Louis for these expenses. The Air Force also sent

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Mr. St. Louis a copy of our decision Matter of Albert Salloom, B-130230, November 30, 1976, citing it as controlling and dispositive of Mr. St. Louis' claim. That decision denied a claim for real estate expenses based upon facts substantially similar to those in the instant situation. Mr. St. Louis asserts that the Salloom case is not controlling and argues that in rendering that decision our Office ignored the congressional mandate of applicable statutes and regulations. He contends that since the Air Force closed the Westover Base and forced him to seek employment elsewhere, the Government should reimburse him for the real estate expenses involved in the sale of his Massachusetts residence.

In our view Salloom is controlling. In that case an employee of the Air Force sought reimbursement for real estate expenses incurred in connection with the purchase of a home near Travis AFB, California, upon his transfer from Wiesbaden, Germany. Like Mr. St. Louis, the employee had transferred to Wiesbaden, Germany, from Westover AFB, Massachusetts. While in Germany his position was abolished due to the closure of Westover AFB and his reemployment rights were transferred to Griffiss AFB. In denying the employee's claim we held that Federal Travel Regulations (FTR) (FPMR 101-7) para. 2-6.1 (May 1973) precludes the reimbursement of real estate expenses when an employee is transferred from an old duty station overseas to the new duty station in the U. S.

Section 23 of Public Law 89-516, 80 Stat. 323, now codified in 5 U.S.C. § 5724a (1970), authorizes reimbursement of certain expenses associated with the sale or purchase of a residence incident to an employee's transfer of official station. In pertinent part 5 U.S.C. § 5724a reads as follows:

"(a) \* \* \* appropriations \* \* \* are available for the reimbursement of all or part of the following expenses of an employee for whom the Government pays expenses of travel and transportation under section 5724(a) of this title:

\* \* \* \* \*

"(4) Expenses of the sale of the residence  
\* \* \* of the employee at the old station and purchase

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of a home at the new official station required to be paid by him when the old and new official stations are located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. \* \* \* (Underscoring supplied.)

Consistent with the limiting language of this section, 2 JTR para. C14000-1 prohibits such payments to employees transferred from a duty post outside the United States.

Paragraph 2-6.1 of the FTR provides in pertinent part as follows:

"Conditions and requirements under which allowances are payable. To the extent allowable under this provision, the Government shall reimburse an employee for expenses required to be paid by him in connection with the sale of one residence at his old official station, for purchase (including construction) of one dwelling at his new official station \* \* \* Provided, That:

"a. \* \* \* A permanent change of station is authorized or approved and the old and new official stations are located within the 50 States, the District of Columbia, the territories and possessions of the United States, the Commonwealth of Puerto Rico, or the Canal Zone\* \* \*."

In our view the congressional mandate is clear. When the Congress desired to make the expense reimbursable if only the new station is required to be located in the United States (and other named places) the law so stated as in connection with the allowance for subsistence expenses for temporary quarters contained in subsection 5724a(a)(3). However, when both the old and the new stations were required to be located in the continental United States or the United States (and other specifically named places) the law spelled out this requirement as in the subsections dealing with locating a residence and expenses in connection with the sale or purchase of a home, subsections 5724a(a)(2) and 5724a(a)(4), respectively. B-169696, June 2, 1970.

The only basis for payment of expenses incident to the sale and purchase of a residence is that provided by statute. Congress, in

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enacting the law, has limited its application to those cases where the old and the new official stations are located within the United States or other named locations, and our Office may not, by interpretation, extend its application to include situations involving transfers from or to official stations located in foreign countries. B-169696, September 17, 1970.

Mr. St. Louis argues, in effect, that he should be regarded as having been transferred from Wiesbaden to Westover AFB, and thence from Westover AFB to Robins AFB. In Sallooin we held that the actual transfer is to be considered in applying the limitations of 5 U.S.C. § 5724a(4) and FTR para. 2-6.1. This proposition is controlling here. Notwithstanding the fact that Mr. St. Louis had reemployment rights in this country, the determining factor is the actual transfer. Since Mr. St. Louis returned to Robins AFB from Wiesbaden, a place outside the United States, he is not entitled to reimbursement for the expense of the sale of his residence in Massachusetts.

  
Deputy, Comptroller General  
of the United States